

106TH CONGRESS
1ST SESSION

H. R. 1027

To provide for the carriage by satellite carriers of local broadcast station signals, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 8, 1999

Mr. COBLE introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for the carriage by satellite carriers of local broadcast station signals, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Satellite Television Im-
5 provement Act”.

6 **SEC. 2. AMENDMENTS TO TITLE 17, UNITED STATES CODE.**

7 Section 119 of title 17, United States Code, is
8 amended—

9 (1) in subsection (a)—

1 (A) in paragraph (1), by striking “(6)”
2 and inserting “(5)”;

3 (B) in paragraph (2)—

4 (i) by striking

5 “(2) NETWORK STATIONS.—

6 “(A) IN GENERAL.—Subject to the provi-
7 sions of subparagraphs (B) and (C) of this
8 paragraph and paragraphs (3), (4), (5), and
9 (6)”

10 and inserting

11 “(2) NETWORK STATIONS.—Subject to the pro-
12 visions of paragraphs (3), (4), and (5)” and running
13 in the remaining text of the subparagraph; and

14 (ii) by striking subparagraphs (B) and
15 (C);

16 (C) in paragraph (3), by striking “, or has
17 failed to make the submissions to networks re-
18 quired by paragraph (2)(C)”;

19 (D) by striking paragraphs (5), (8), (9),
20 and (10) and redesignating paragraphs (6) and
21 (7) as paragraphs (5) and (6), respectively; and
22 (2) in subsection (d), by striking paragraphs
23 (10) and (11).

1 **SEC. 3. RETRANSMISSION CONSENT.**

2 Section 325(b) of the Communications Act of 1934
3 (47 U.S.C. 325(b)) is amended—

4 (1) by striking paragraphs (1) and (2) and in-
5 serting the following:

6 “(b)(1) No cable system or other multichannel video
7 programming distributor shall retransmit the signal of a
8 broadcasting station, or any part thereof, except—

9 “(A) with the express authority of the station;

10 “(B) pursuant to section 614, in the case of a
11 station electing, in accordance with this subsection,
12 to assert the right to carriage under such section; or

13 “(C) pursuant to section 337, in the case of a
14 station electing, in accordance with this subsection,
15 to assert the right to carriage under such section.

16 “(2) The provisions of this subsection shall not apply
17 to—

18 “(A) retransmission of the signal of a non-
19 commercial broadcasting station;

20 “(B) retransmission of the signal of a supersta-
21 tion by a satellite carrier to subscribers for private
22 home viewing if the originating station was a super-
23 station on May 1, 1991;

24 “(C) retransmission of the signal of a broad-
25 casting station that is owned or operated by, or af-
26 filiated with, a broadcasting network directly to a

1 home satellite antenna, if the household receiving
2 the signal is located in an area in which such station
3 may not assert its rights not to have its signal dupli-
4 cated under the Commission's network nonduplica-
5 tion regulations; or

6 “(D) retransmission by a cable operator or
7 other multichannel video programming distributor of
8 the signal of a superstation if such signal was ob-
9 tained from a satellite carrier and the originating
10 station was a superstation on May 1, 1991.”;

11 (2) by adding at the end of paragraph (3) the
12 following new subparagraph:

13 “(C) Within 45 days after the effective date of the
14 Satellite Television Improvement Act, the Commission
15 shall commence a rulemaking proceeding to revise the reg-
16 ulations governing the exercise by television broadcast sta-
17 tions of the right to grant retransmission consent under
18 this subsection, and such other regulations as are nec-
19 essary to administer the limitation contained in paragraph
20 (2). Such regulations shall establish election time periods
21 that correspond with those regulations adopted under sub-
22 paragraph (B). The rulemaking shall be completed within
23 180 days after the effective date of the Satellite Television
24 Improvement Act.”; and

1 (3) by adding at the end the following new
2 paragraph:

3 “(7) For purposes of this subsection:

4 “(A) The term ‘superstation’ means a television
5 broadcast station, other than a network station, li-
6 censed by the Commission that is secondarily trans-
7 mitted by a satellite carrier.

8 “(B) The term ‘satellite carrier’ has the mean-
9 ing given that term in section 119(d) of title 17,
10 United States Code.”.

11 **SEC. 4. MUST-CARRY FOR SATELLITE CARRIERS RE-**
12 **TRANSMITTING TELEVISION BROADCAST SIG-**
13 **NALS.**

14 Title III of the Communications Act of 1934 is
15 amended by inserting after section 336 the following new
16 section:

17 **“SEC. 337. CARRIAGE OF LOCAL TELEVISION SIGNALS BY**
18 **SATELLITE CARRIERS.**

19 “(a) CARRIAGE OBLIGATIONS.—Each satellite carrier
20 providing direct to home service of a television broadcast
21 station to subscribers located within the local market of
22 such station shall, not later than January 1, 2002, carry
23 all television broadcast stations located within that local
24 market. Carriage of additional television broadcast sta-

1 tions within the local market shall be at the discretion of
2 the satellite carrier, subject to section 325(b).

3 “(b) GOOD SIGNAL REQUIRED.—

4 “(1) COSTS.—A television broadcast station eli-
5 gible for carriage under subsection (a) shall be re-
6 quired to bear the costs associated with delivering a
7 good quality signal to the designated local receive fa-
8 cility of the satellite carrier. The selection of a local
9 receive facility by a satellite carrier shall not be
10 made in a manner that frustrates the purposes of
11 this section.

12 “(2) REGULATIONS.—The regulations issued
13 under subsection (g) shall set forth the obligations
14 necessary to carry out this subsection.

15 “(c) DUPLICATION NOT REQUIRED.—Notwithstand-
16 ing subsection (a), a satellite carrier shall not be required
17 to carry the signal of any local television broadcast station
18 that substantially duplicates the signal of another local tel-
19 evision broadcast station which is secondarily transmitted
20 by the satellite carrier, or to carry the signals of more
21 than one local television broadcast station affiliated with
22 a particular broadcast network (as the term is defined by
23 regulation).

24 “(d) CHANNEL POSITIONING.—Each signal carried
25 in fulfillment of the carriage obligations of a satellite car-

1 rier under this section shall be carried on the satellite car-
2 rier channel number on which the local television broad-
3 cast station is broadcast over the air, or on the channel
4 on which it was broadcast on January 1, 1985, or on the
5 channel it was broadcast on January 1, 1998, at the elec-
6 tion of the station, or on such other channel number as
7 is mutually agreed upon by the station and the satellite
8 carrier. Any dispute regarding the positioning of local tele-
9 vision broadcast stations shall be resolved by the Commis-
10 sion.

11 “(e) COMPENSATION FOR CARRIAGE.—A satellite
12 carrier shall not accept or request monetary payment or
13 other valuable consideration in exchange either for car-
14 riage of local television broadcast stations in fulfillment
15 of the requirements of this section or for channel position-
16 ing rights provided to such stations under this section, ex-
17 cept that any such station may be required to bear the
18 costs associated with delivering a good quality signal to
19 the principal headend of the satellite carrier.

20 “(f) REMEDIES.—

21 “(1) COMPLAINTS BY BROADCAST STATIONS.—

22 Whenever a local television broadcast station believes
23 that a satellite carrier has failed to meet its obliga-
24 tions under this section, such station shall notify the
25 carrier, in writing, of the alleged failure and identify

1 its reasons for believing that the satellite carrier is
2 obligated to carry the signal of such station or has
3 otherwise failed to comply with the channel position-
4 ing or repositioning or other requirements of this
5 section. The satellite carrier shall, within 30 days of
6 such written notification, respond in writing to such
7 notification and either commence to carry the signal
8 of such station in accordance with the terms re-
9 quested or state its reasons for believing that it is
10 not obligated to carry such signal or is in compliance
11 with the channel positioning and repositioning or
12 other requirements of this section. A local television
13 broadcast station that is denied carriage or channel
14 positioning or repositioning in accordance with this
15 section by a satellite carrier may obtain review of
16 such denial by filing a complaint with the Commis-
17 sion. Such complaint shall allege the manner in
18 which such satellite carrier has failed to meet its ob-
19 ligations and the basis for such allegations.

20 “(2) OPPORTUNITY TO RESPOND.—The Com-
21 mission shall afford such satellite carrier and oppor-
22 tunity to present data and arguments to establish
23 that there has been no failure to meet its obligations
24 under this section.

1 “(3) REMEDIAL ACTIONS; DISMISSAL.—Within
2 120 days after the date a complaint is filed, the
3 Commission shall determine whether the satellite
4 carrier has met its obligations under this section. If
5 the Commission determines that the satellite carrier
6 has failed to meet such obligations, the Commission
7 shall order the satellite carrier to reposition the com-
8 plaining station or, in the case of an obligation to
9 carry a station, to commence carriage of the station
10 and to continue such carriage for at least 12
11 months. If the Commission determines that the sat-
12 ellite carrier has fully met the requirements of this
13 section, it shall dismiss the complaint.

14 “(g) REGULATIONS BY COMMISSION.—Within 180
15 days after the effective date of this section, the Commis-
16 sion shall, following a rulemaking proceeding, issue regula-
17 tions implementing the requirements imposed by this sec-
18 tion.

19 “(h) DEFINITIONS.—As used in this section:

20 “(1) TELEVISION BROADCAST STATION.—The
21 term ‘television broadcast station’ means a full-
22 power television broadcast station, and does not in-
23 clude a low-power or translator television broadcast
24 station.

1 “(2) LOCAL MARKET.—The term ‘local market’
2 means the designated market area in which a station
3 is located and—

4 “(A) for a commercial television broadcast
5 station located in any of the 150 largest des-
6 ignated market areas, all commercial television
7 broadcast stations licensed to a community
8 within the same designated market area are
9 within the same local market;

10 “(B) for a commercial television broadcast
11 station that is located in a designated market
12 area that is not one of the 150 largest, the local
13 market includes, in addition to all commercial
14 television broadcast stations licensed to a com-
15 munity within the same designated market
16 area, any station that is significantly viewed, as
17 such term is defined in section 76.54 of the
18 Commission’s regulations (47 C.F.R. 76.54);
19 and

20 “(C) for a noncommercial educational tele-
21 vision broadcast station, the local market in-
22 cludes any station that is licensed to a commu-
23 nity within the same designated market area as
24 the noncommercial educational television broad-
25 cast station.

1 “(3) DESIGNATED MARKET AREA.—The term
2 ‘designated market area’ means a designated market
3 area, as determined by the Nielsen Media Research
4 and published in the DMA Market and Demographic
5 Report.”.

6 **SEC. 5. NETWORK NONDUPLICATION; SYNDICATED EXCLU-**
7 **SIVITY AND SPORTS BLACKOUT.**

8 (a) REGULATIONS.—

9 (1) IN GENERAL.—Within 45 days after the ef-
10 fective date of this Act, the Federal Communications
11 Commission shall commence a rulemaking to estab-
12 lish regulations that apply network nonduplication
13 protection, syndicated exclusivity protection, and
14 sports blackout protection to the retransmission of
15 broadcast signals by satellite carriers to subscribers.
16 To the extent possible, such regulations shall, sub-
17 ject to paragraph (2), include the same level of pro-
18 tection accorded retransmissions of television broad-
19 cast signals by cable systems for network non-
20 duplication (47 C.F.R. 76.92), syndicated exclusivity
21 (47 C.F.R. 151), and sports blackout (47 C.F.R.
22 76.67).

23 (2) NETWORK NONDUPLICATION.—The network
24 nonduplication regulations required under paragraph

1 (1) shall allow a television broadcast station to as-
2 sert nonduplication rights—

3 (A) against a satellite carrier throughout
4 that station's local market if that satellite car-
5 rier is providing retransmissions of television
6 signals in that market to subscribers of another
7 television broadcast station located within that
8 local market; or

9 (B) against a satellite carrier in the geo-
10 graphic area in which the signal of that tele-
11 vision broadcast station is of Grade B intensity
12 based upon the Individually Located Longley-
13 Rice methodology described by the Federal
14 Communications Commission in its Docket No.
15 98–201, but such geographic area shall not ex-
16 tend beyond the local market of such station.

17 (3) WAIVERS.—(A) the network nonduplication
18 protection described in paragraph (2)(b) shall not
19 apply to a subscriber located in the geographic area
20 that is identified by the Individually Located
21 Longley-Rice methodology described by the Federal
22 Communications Commission in its Docket No. 98–
23 201 who files with the satellite carrier a written
24 waiver obtained from the network station whose
25 local market is in that geographic area, allowing the

1 subscriber to receive satellite service of another net-
2 work station affiliated with that same network. The
3 local network station and the satellite carrier shall
4 maintain a file available to the public that contains
5 such waiver.

6 (B) If a subscriber within the local market of
7 a network station petitions the Federal Communica-
8 tions Commission with the written findings and con-
9 clusions of a test conducted in accordance with the
10 provisions of section 73.686(d) of title 47, Code of
11 Federal Regulations, as in effect on March 1, 1999,
12 demonstrating that the subscriber does not receive
13 an over-the-air signal of the network station of
14 Grade B intensity, the network station shall have 30
15 days in which to file with the Commission an objec-
16 tion to the petition. If the network station does not
17 file a timely objection, then the station may not as-
18 sert network nonduplication protection described in
19 paragraph (2)(B) against that subscriber. If the sta-
20 tion does file a timely objection, then the Commis-
21 sion shall have 120 days in which to determine the
22 sufficiency of the subscriber's petition. If the Com-
23 mission determines that the petition is sufficient,
24 then The network nonduplication protection de-

1 scribed in paragraph (2)(B) shall not apply to that
2 subscriber.

3 (4) LOCAL MARKET DEFINED.—The term “local
4 market” has the meaning provided in section 337(h)
5 of the Communications Act of 1934, as added by
6 section 3 of this Act.

7 (b) DEFERRED APPLICABILITY OF AMENDMENTS TO
8 SECTION 119 OF TITLE 17, UNITED STATES CODE.—
9 Notwithstanding the amendments to section 119 of title
10 17, United States Code, made by this Act, until the regu-
11 lations regarding network nonduplication protection are
12 established under subsection (a), the statutory license
13 under subsection (a) of such section 119 for secondary
14 transmissions of primary transmissions of programming
15 contained in a primary transmission made by a network
16 station (as defined in section 119(d) of title 17, United
17 States Code, as in effect on the day before the effective
18 date of this Act) shall be limited to secondary trans-
19 missions to persons who reside in unserved households (as
20 defined in section 119(d) of title 17, United States Code,
21 as in effect on the day before the effective date of this
22 Act).

1 **SEC. 6. EFFECTIVE DATE.**

2 This Act and the amendments made by this Act shall
3 take effect on July 1, 1999.

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